



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 13-0546, Version: 1

Dept/ Agency: Economic & Housing Development

Action: () Ratifying (X) Authorizing () Amending

Type of Service: Affordable Housing Agreement

Purpose: Entity Name: MBI Development Company, Inc.

Entity Address: 725 Cuthbert Boulevard, Cherry Hill, New Jersey 08002

Grant Amount: \$950,000.00

Funding Source: City of Newark Motor Vehicle Rental Tax Account

Contract Period: *The use of rental tax account funds provided under the Agreement shall be for a period of two (2) years, and not to exceed four years, from the date of adoption by the Newark Municipal Council.*

Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
() Fair & Open () No Reportable Contributions () RFP () RFQ
() Private Sale (X) Grant () Sub-recipient () n/a

List of Property:

(Address/Block/Lot/Ward)

10 Crawford Street/ /Block 116/ Lot 46/Central Ward
12 Crawford Street/ /Block 116/ Lot 47/Central Ward
14 Crawford Street/ /Block 116/ Lot 48/Central Ward
16-20 Crawford Street/ /Block 116/ Lot 49/Central Ward
401-407 Halsey Street/ /Block 116/ Lot 34/Central Ward
395 Halsey Street/ Block 116/ Lot 30/Central Ward
397 Halsey Street/ /Block 116/ Lot 31/Central Ward
399 Halsey Street/ /Block 116/ Lot 32/Central Ward
24 West Kinney Place/ /Block 116/ Lot 3/Central Ward
22 West Kinney Place/ /Block 116/ Lot 5/Central Ward
18-20 West Kinney Place/ /Block 116/ Lot 7/ Central Ward
16 West Kinney Place/ Block 116/ Lot 9/Central Ward

Additional Information:

Proposed Funding Sources:
Permanent Loan \$ 2,500,000.00
LIHTC Equity \$ 11,066,958.00
HMFA Subsidy \$950,000.00

WHEREAS, N.J.S.A. 40:48H-1 et seq. (the “Municipal Motor Vehicle Rental Tax Law”) authorizes qualifying municipalities to impose, by ordinance, a tax upon motor vehicle rental transactions occurring within designated industrial zones of the municipality and to utilize the tax revenues collected thereunder (hereinafter, the “Motor Vehicle Rental Tax Revenues”) for specified eligible purposes; and

WHEREAS, the City of Newark is one of the municipalities which qualifies under the Municipal Motor Vehicle Rental Tax Law to impose, by ordinance, a tax upon motor vehicle rental transactions occurring within designated industrial zones; and

WHEREAS, as authorized by the Municipal Motor Vehicle Rental Tax Law, the Municipal Council of the City of Newark adopted Ordinance 6PSF-I 050510 (the “Motor Vehicle Rental Tax Ordinance”) imposing a tax upon motor vehicle rental transactions occurring within the Second and Third Industrial Districts of the City; and

WHEREAS, both the Municipal Motor Vehicle Rental Tax Law and the Motor Vehicle Rental Tax Ordinance authorize the use of Motor Vehicle Rental Tax Revenues for specified eligible purposes, including but not limited to the payment or reimbursement of costs of any redevelopment project or other undertaking in furtherance of a redevelopment plan in any area in need of redevelopment or area in need of rehabilitation within the municipality; and

WHEREAS, the Motor Vehicle Rental Tax Ordinance provides that Motor Vehicle Rental Tax Revenues may be disbursed from the City’s Motor Vehicle Rental Tax Account for the payment of the costs of eligible purposes by resolution of the Municipal Council; and

WHEREAS, pursuant to Resolution 7R3-d(s), adopted on January 23, 2013, the Municipal Council requested and endorsed the prospective policy of the Mayor and the City of Newark Department of Economic and Housing Development that any future commitment of the Motor Vehicle Rental Tax Revenues, generated by virtue of N.J.S.A. 40:48H-1 et seq. and Ordinance 6PSF-I 050510 as the same may be amended from time to time, shall be allocated such that not less than fifty percent (50%) of said future allocations shall be made for eligible purposes that are located outside of the City’s downtown commercial district; and

WHEREAS, pursuant to the Municipal Motor Vehicle Rental Tax Law, the Motor Vehicle Rental Tax Ordinance and Resolution 7R3-d(s) January 23, 2013, the Department of Economic and Housing Development desires to enter into a non-fair-and-open Affordable Housing Agreement (the “Agreement”) with MBI Development Company, Inc. (“the Entity”) having its principal place of business at 725 Cuthbert Boulevard, Cherry Hill, New Jersey 08002, in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00) in Motor Vehicle Rental Tax funds (“Grant Funds”) to MBI Development Company, Inc. for The Residences at Symphony Hall Project to be located on;

- 10 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 46) (Central Ward),
- 12 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 47) (Central Ward),
- 14 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 48) (Central Ward),
- 16-20 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 49) (Central Ward),
- 401-407 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 34) (Central Ward),
- 395 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 30) (Central Ward),

- 397 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 31) (Central Ward),
- 399 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 32) (Central Ward),
- 24 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 3) (Central Ward),
- 22 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 5) (Central Ward),
- 18-20 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 7) (Central Ward), and
- 16 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 9) (Central Ward).

(the “Project”) and such funds will subsidize the development of ten (10) of the sixty (60) units within the multi-family rental project. Fifteen (15) of the units in the project will be occupied by individuals with Special Needs; and

WHEREAS, the City wishes to award these Grant Funds to MBI Development Company, Inc., in the form of a deferred loan and restrict the project pursuant to all requirements of the Federal HOME program for a period of thirty (30) years, pursuant to the HOME program Regulations (24 CFR part 92) and any amendments, thereto; and

WHEREAS, MBI Development Company, Inc. shall be responsible for ensuring that said Grant Funds are used by them in accordance with all said Federal HOME Program Regulations, 24 CFR Part 92; and

WHEREAS, it is in the best interest of the City of Newark and the Department of Economic and Housing Development to establish contractual guarantees and procedures by which the City of Newark will ensure the Entity’s compliance with the requirements of the federal HOME program for the time and in the manner set forth in the Agreement for the receipt of said Grant Funds.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a non-fair-and-open Affordable Housing Agreement (The “Agreement”) with MBI Development Company, Inc. (“the Entity”), having its principal place of business at 725 Cuthbert Boulevard, Cherry Hill New Jersey 08002, in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00) in Motor Vehicle Rental Tax funds (“Grant Funds”) to subsidize the construction and pre-development costs of ten (10) of the sixty (60) units within the multi-family rental project known as The Residences at Symphony Hall Project (the “Project”). The Project will be located on:

- 10 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 46) (Central Ward),

- 12 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 47) (Central Ward),
 - 14 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 48) (Central Ward),
 - 16-20 Crawford Street, Newark, New Jersey 07102 (Block 116, Lot 49) (Central Ward),
 - 401-407 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 34) (Central Ward),
 - 395 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 30) (Central Ward),
 - 397 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 31) (Central Ward),
 - 399 Halsey Street, Newark, New Jersey 07102 (Block 116, Lot 32) (Central Ward),
 - 24 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 3) (Central Ward),
 - 22 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 5) (Central Ward),
 - 18-20 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 7) (Central Ward), and
 - 16 West Kinney Place, Newark, New Jersey 07102 (Block 116, Lot 9) (Central Ward).
2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to establish a declaration of covenants, conditions and restrictions to ensure that the Project remains affordable for a period of thirty (30) years. Said covenants, conditions and restrictions shall run with the land and bind the Entity and any subsequent purchasers and owners, their heirs, executors, administrators and assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns with this Agreement for a period of thirty (30) years.
 3. The Entity shall be responsible for the recordation of the final fully executed Agreement, Mortgage and the Mortgage Note and any amendments thereto in the Office of the Essex County Register's Office.
 4. The mortgage and mortgage note given by the Entity shall ensure compliance with the requirements of the HOME program, pursuant to the HOME program statute and regulations (24 CFR Part 92).
 5. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Agreement annexed hereto as permitted by New Jersey Law and may enter into subordination agreements, access and right of entry agreements, mortgages and other relevant documents related to this fund allocation in a form subject to the approval of the Corporation Counsel. In addition, the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two six month extensions of the

term of the contract and any contract timelines and milestones, provided that any contract timelines and milestones are not extended beyond the two permitted six month extensions, subject to full written disclosure (in the form of a signed memorandum to be submitted prior to adoption) to the Newark Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development and the approval of the Corporation Counsel.

6. Disbursement of the funds for the project in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00) shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto.
7. The Entity must adhere to all milestones and timelines in the Project Schedule approved by the Department of Economic and Housing Development. The project completion is further defined in the Agreement in Exhibit D. The property must conform to the City of Newark Design and Construction Standards Guidelines for New Home Construction, including standards for environmental sustainability and energy efficiency, as established by the Department of Economic and Housing Development. Should the Entity fail to complete the project within the specified time frame, then the City, in its sole discretion, in addition to any other remedy available by the Agreement or as allowed by law, may direct the Entity to repay all funds expended on the project back to the City.
8. The use of Grant funds provided under the Agreement shall be for a period of two years, and not to exceed four years, from the date of adoption of this authorizing resolution by the Newark Municipal Council. Funds must be expended within 48 months from the date of adoption.
9. The Entity must remain in compliance with municipal, State and Federal laws including, but not limited to the City of Newark's Minority Set-Aside Ordinance (6S&FD 040595) and its Affirmative Action Plan (7RBP030195) and Federal Executive Order 11246 (as amended by Executive Orders 1137 and 12086) with respect to the award of goods and services. The Entity has agreed to ensure that a minimum of 40% of the workers employed during the construction of the project shall be Newark residents and that 30% of all contractors, subcontractors and suppliers shall be Newark companies.
10. Units assisted with Grant Funds must be designated upon execution of the Agreement and must remain fixed units for the duration of the affordability period. Households seeking to occupy Grant Funds assisted units must be certified prior to occupancy and recertified annually.
11. Attached hereto is a certification from the Municipal Comptroller of the City of Newark which states:
 - a) there are sufficient funds in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00) for the purpose set forth herein and above; and
 - b) that the line appropriation of official budget which shall be charged as follows: Business Unit: NW026; Account: 38740; Budget Ref.: B2013.

STATEMENT

The Mayor and/or his designee the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into and execute a non-fair-and-open Affordable Housing Agreement (“The Agreement”) with MBI Development Company, Inc. (“the Entity”) in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00) in Motor Vehicle Rental Tax funds (“Grant Funds”) to subsidize the construction and pre-development costs of ten (10) of the sixty (60) units within the multi-family rental project known as The Residences at Symphony Hall Project (the “Project”). The assisted units must remain affordable for a period of thirty (30) years pursuant to the requirements under the HOME Program (24 CFR Part 92).